



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Date: MAY 26 2010

Joseph Symond, President  
Bug Bam Products, LLC  
414 2<sup>nd</sup> Street, Suite 241  
Hermosa Beach, CA 90254

and

Jacob Levy, President  
Flash Sales, Inc.  
4401 NW 167th Street  
Miami, FL 33055

Re: Federal Insecticide, Fungicide and Rodenticide Act  
Consent Agreement and Final Order  
Docket No. FIFRA-09-2009-0013

Dear Mr. Symond and Mr. Levy:

Enclosed please find a Consent Agreement and Final Order (CAFO) concerning alleged violations of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Sections 136 et seq., by Bug Bam Products, LLC and Flash Sales, Inc. The terms of the CAFO require the payment of \$3,008 to be received by EPA within 120 calendar days of the effective date (stamped filing date) of this CAFO.

If you have any questions, please have your attorney contact Ivan Lieben, Assistant Regional Counsel at U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, California 94105. Mr. Lieben can be reached by telephone at 415-972-3914.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frances Schubert" or similar, written over a horizontal line.

Katherine A. Taylor, Associate Director  
Communities and Ecosystems Division

cc: Marlene Miller, California Department of Pesticide Regulation  
Cheryn Jones, US EPA Region IV

NANCY MARVEL  
Regional Counsel  
United States Environmental Protection Agency, Region IX

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IVAN LIEBEN  
Assistant Regional Counsel  
United States Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105  
(415) 972-3914

Attorneys for Complainant

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CALIFORNIA 94105

In the Matter of:	)	Docket No. FIFRA-09-2009-0013
	)	
Bug Bam Product, LLC; and	)	CONSENT AGREEMENT AND
Flash Sales, Inc.	)	FINAL ORDER
	)	
Respondents.	)	
	)	

**I. CONSENT AGREEMENT**

The United States Environmental Protection Agency, Region IX (“Region IX”) and Bug Bam Products, LLC, and Flash Sales, Inc., (“Respondents”) agree to settle this administrative enforcement action initiated under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and consent to the entry of this Consent Agreement and Final Order (“CAFO”).

A. AUTHORITY AND PARTIES

1. EPA initiated this civil administrative proceeding for the assessment of a civil administrative penalty pursuant to Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. § 136l(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, by issuing a First Amended Complaint and Notice of Opportunity for Hearing ("Complaint") against Respondents on January 28, 2010.

2. The Complaint, which alleges three violations by Respondents of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), by selling or distributing three pesticide products, "Bug Bam Insect Repelling Wristband," "Bug Bam for Kids Insect Repelling Wristband" and "Bug Bam Insect Repelling Grid", without registering them as required by FIFRA, seeks a penalty against Respondents of \$15,300.

3. EPA and Respondents have agreed to resolve the allegations raised in the Complaint through the execution of this CAFO.

B. RESPONDENTS' ADMISSIONS

4. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondents (i) admit that EPA has jurisdiction over the subject matter of this CAFO and over Respondents; (ii) neither admit nor deny the specific factual allegations contained in the Complaint; (iii) consent to any and all conditions specified in this CAFO and to the assessment of the civil administrative penalty under Section I.C. of this CAFO; (iv) waive any right to

contest the allegations contained in the Complaint; and (v) waive the right to appeal the proposed final order contained in this CAFO.

C. CIVIL ADMINISTRATIVE PENALTY

5. In settlement of the violations specifically alleged in the Complaint, Respondents shall pay a civil administrative penalty, plus interest pursuant to 40 C.F.R. § 13.11, of THREE THOUSAND EIGHT DOLLARS (\$3,008). Respondents shall pay the full amount of this penalty within 120 days of the effective date of this CAFO. Payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," and shall be sent by certified mail, return receipt requested to the following address:

U.S. Environmental Protection Agency, Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979078  
St. Louis, MO 63197-9000

The payment shall be accompanied by a transmittal letter identifying the case name, the case docket number, and this CAFO. Concurrent with delivery of the payment of the penalty, Respondents shall send a copy of the check and transmittal letter to the following addresses:

Regional Hearing Clerk  
Office of Regional Counsel (ORC-1)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

AND

Bill Lee  
Pesticides Program (CED-5)  
U.S. Environmental Protection Agency, Region IX

75 Hawthorne Street  
San Francisco, CA 94105

6. Payment of the above civil administrative penalty shall not be used by Respondents or any other person as a tax deduction from Respondents' federal, state, or local taxes.

7. If Respondents fail to pay in full the civil administrative penalty by its due date, then Respondents agree to pay immediately upon EPA's written request a total penalty of \$15,300, increased to assess a stipulated penalty for the late payment. In addition, failure to pay in full the civil administrative penalty by its due date may lead to any or all of the following actions:

- a. The debt being referred to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court. 40 C.F.R §§ 13.13, 13.14, and 13.33. In any such collection action, the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review.
- b. The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

- c. EPA may (i) suspend or revoke Respondents' licenses or other privileges; (ii) suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds; (iii) convert the method of payment under a grant or contract from an advanced payment to a reimbursement method; or (iv) revoke a grantee's or contractor's letter-of-credit. 40 C.F.R. § 13.17.

8. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13, interest, penalty charges, and administrative costs will be assessed against the outstanding amount that Respondents owe to EPA for Respondents' failure to pay in full the civil administrative penalty by its due date. Interest will be assessed at an annual rate that is equal to the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins, 40 C.F.R. § 13.11(a)(1). Penalty charges will be assessed monthly at a rate of 6% per annum, 40 C.F.R. § 13.11(c). Administrative costs for handling and collecting Respondents' overdue debt will be based on either actual or average cost incurred, and will include both direct and indirect costs, 40 C.F.R. § 13.11(b). In addition, if this matter is referred to another department or agency (e.g., the Department of Justice, the Internal Revenue Service), that department or agency may assess its own administrative costs, in addition to EPA's administrative costs, for handling and collecting Respondents' overdue debt.

**D. CERTIFICATION AND COMPLIANCE**

9. In executing this CAFO, Respondents certify that (1) they are not selling or distributing any pesticide in the United States that is unregistered in violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), including “Bug Bam Insect Repelling Wristband,” “Bug Bam for Kids Insect Repelling Wristband” and “Bug Bam Insect Repelling Grid” products that fail to meet the exemption requirements of 40 C.F.R. § 152.25(f); and (2) they are in compliance with all other FIFRA requirements at all facilities that they own or operate.

**E. RETENTION OF RIGHTS**

10. In accordance with 40 C.F.R. § 22.18(c) and as provided below, this CAFO only resolves Respondents liability for federal civil penalties for the violations and facts specifically alleged in the Complaint. Nothing in this CAFO is intended to or shall be construed to resolve (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged the First Amended Complaint; or (ii) any criminal liability. In addition to any other authority, right, or remedy available to EPA, EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in the Complaint.

11. This CAFO does not exempt, relieve, modify, or affect in any way Respondents' duty to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

F. ATTORNEYS' FEES AND COSTS

12. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in this proceeding.

G. EFFECTIVE DATE

13. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the Final Order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

H. BINDING EFFECT

14. The undersigned representative of Complainant and the undersigned representatives of Respondents each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.


15. The provisions of this CAFO shall apply to and be binding upon Respondents and their officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.



In the Matter of Bug Bam, LLC, and Flash Sales, Inc.  
FIFRA Consent Agreement and Final Order

FOR RESPONDENT BUG BAM, LLC.


5/25/10  
DATE:

BY:   
NAME: JOSEPH M SYMOND  
TITLE: OWNER

In the Matter of Bug Barn, LLC, and Flash Sales, Inc.  
FIFRA Consent Agreement and Final Order

FOR RESPONDENT FLASH SALES, INC.

5/25/2010  
DATE:

BY:   
NAME: Barry Rub  
TITLE: Secretary

In the Matter of Bug Bam, LLC, and Flash Sales, Inc.  
FIFRA Consent Agreement and Final Order

FOR COMPLAINANT EPA REGION IX:


May 26, 2010  
DATE

BY: Katherine A. Taylor  
Katherine A. Taylor  
Associate Director for Agriculture  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street

## **II. FINAL ORDER**

EPA and Bug Bam Products, LLC, and Flash Sales, Inc., having entered into the foregoing Consent Agreement, IT IS HEREBY ORDERED that this CAFO (Docket No. FIFRA-09-2009-0013) be entered, and Respondents shall pay a civil administrative penalty, plus interest, in the amount of THREE THOUSAND EIGHT DOLLARS (\$3,008), and otherwise comply with the terms and conditions set forth in the Consent Agreement.

05/26/10  
DATE

  
STEVEN JAWGIEL  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order, Docket No FIFRA-09-2009-0013 has been filed with the Region 9 Hearing Clerk and that a copy was sent certified mail, return receipt requested, to:


Joseph M. Symond, CEO  
Bug Bam Products, LLC  
414 2<sup>nd</sup> Street Apt. 241  
Hermosa Beach, CA 90254

and

Jacob Levy, President  
Flash Sales, Inc.  
4401 NW 167<sup>th</sup> Street  
Miami, FL 33055

Dated: 5/26/10

By:

  
\_\_\_\_\_  
U.S. Environmental Protection Agency, Region IX  
FOR: STEVEN ARMSEY, RHC